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LOS ANGELES
811 WILSHIRE BLVD.
SUITE 900
LOS ANGELES, CA 90017
TEL: (213) 623-3979
FAX: (213) 623-7527
dtla@acelegal.com

SAN FRANCISCO
149 9TH STREET
SUITE 204
SAN FRANCISCO, CA 94103
TEL: (415) 556-1000
FAX: (415) 556-8000
sf@acelegal.com

SANTA ANA
414 WEST 4TH STREET
SUITE O
SANTA ANA, CA 92701
TEL: (714) 543-4220
FAX: (714) 543-4223
oc@acelegal.com

RIVERSIDE
3631 10TH STREET
SUITE 214
RIVERSIDE, CA 92501
TEL: (951) 786-9984
FAX: (951) 786-9986
riv@acelegal.com

SAN DIEGO
110 WEST C STREET
SUITE 805
SAN DIEGO, CA 92101
TEL: (619) 235-8400
FAX: (619) 235-8401
sd@acelegal.com

SACRAMENTO
901 F STREET
SUITE 150
SACRAMENTO, CA 95814
TEL: (916) 447-4000
FAX: (916) 447-8000
sacto@acelegal.com

COURT SERVICES	Provide one extra copy to conform.	
	FIRM and CASE INFORMATION	DATE: <u>12/30/16</u> COURT: <u>LASC-Central</u> CASE NO.: <u>BC 173952</u> CASE NAME: <u>TIG Insurance Co. v. Smolker</u> DOCUMENTS: <u>DEC RJH SUPPORTING MOTION TO DISMISS;</u> <u>GRACE DAVISON'S SUPPLEMENTAL BRIEFING</u> <u>TO MOTION TO DISMISS</u>
FIRM and CASE INFORMATION	FIRM: #10006 BORTON PETRINI LLP 626 WILSHIRE BLVD., SUITE 975 LOS ANGELES, CA 90017 (213) 624-2869 ATTY/SECTY: <u>Elva</u> EXT. <u>1504</u> YOUR FILE NO.: <u>003418/045809</u>	
CRITICAL DATES	LAST DAY TO FILE <u>12/30/16</u> EXPEDITE & RETURN BY: _____ HEARING SET FOR <u>1/17/17</u> AT <u>8:30am</u> DEPT/DIV. <u>15</u>	
FEES	FEE \$ _____ <input type="checkbox"/> ATTACHED <input type="checkbox"/> ADVANCE DEFENDANT/RESPONDENT APPEARANCE FEE PAID? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO DATE PAID: _____	
SERVICE REQUESTED	<input type="checkbox"/> EXCLUSIVE <input checked="" type="checkbox"/> SAME DAY <input type="checkbox"/> NEXT DAY <input type="checkbox"/> DAILY RUN <input type="checkbox"/> FILING <input checked="" type="checkbox"/> FILE & CONFORM <input type="checkbox"/> COURTESY COPY <input type="checkbox"/> SASE ATTACHED <input type="checkbox"/> RESEARCH	
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County of Los Angeles

DEC 30 2016

Sherri R. Carter, Executive Officer/Clerk
By Haul Sanchez, Deputy

Rosemarie S. Lewis, Esq. SBN: 158891

Jeffrey Z. Liu, Esq. SBN: 276849

BORTON PETRINI, LLP

626 Wilshire Boulevard, Suite 975

Los Angeles, California 90017

Tel: (213) 624-2869

Fax: (213) 489-3930

mtrostler@bortonpetrini.com

Attorneys for Cross-Defendants

W.R. GRACE & COMPANY and Grace Davison

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL JUDICIAL DISTRICT

TIG INSURANCE COMPANY,
A California corporation,

Plaintiff,

v.

GARY SMOLKER, an individual, and ALICE
SMOLKER, an individual; and DOES 1-10,
inclusive,

Defendants.

GARY SMOLKER,

Cross-Complainant,

v

HOME SAVINGS TERMITE CONTROL, INC., et
al.,

Cross-Defendants

Case No. BC173952

Transferred to the Honorable Judge Richard Fruin
Department 15

**DECLARATION OF ROGER J. HIGGINS IN
SUPPORT OF W.R. GRACE COMPANY
AND GRACE DAVISON'S MOTION TO
DISMISS FOR FAILURE TO BRING
ACTION TO TRIAL WITHIN FIVE YEARS
AS REQUIRED BY CODE OF CIVIL
PROCEDURE §583.310, §583.360.**

Date: January 17, 2017

Time: 8:30 a.m.

Place: Department 15

Reservation No.: 161115174315

No Trial Date Set

Rosemarie S. Lewis, Esq. SBN: 158891
Jeffrey Z. Liu, Esq. SBN: 276849
BORTON PETRINI, LLP
626 Wilshire Boulevard, Suite 975
Los Angeles, California 90017
Tel: (213) 624-2869
Fax: (213) 489-3930
mtrostler@bortonpetrini.com

Attorneys for Cross-Defendants
W.R. GRACE & COMPANY and Grace Davison

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Superior Court of California
County of Los Angeles

DEC 30 2016

Mineral Clerk

Sherril R. Garter, Executive Clerk
By Raul Sanchez, Dep

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL JUDICIAL DISTRICT

TIG INSURANCE COMPANY,
A California corporation,

Plaintiff,

v.

GARY SMOLKER, an individual, and ALICE
SMOLKER, an individual; and DOES 1-10,
inclusive,

Defendants.

GARY SMOLKER,

Cross-Complainant,

v

HOME SAVINGS TERMITE CONTROL, INC., et
al.,

Cross-Defendants

Case No. BC173952

Transferred to the Honorable Judge Richard Fruin
Department 15

**W.R. GRACE & COMPANY AND GRACE
DAVISON'S SUPPLEMENTAL BRIEFING
TO MOTION TO DISMISS FOR FAILURE
TO BRING ACTION TO TRIAL WITHIN
FIVE YEARS AS REQUIRED BY CODE OF
CIVIL PROCEDURE §583.310, §583.360;
DECLARATION OF ROGER J. HIGGINS,
ESQ. IN SUPPORT THEREOF;
DECLARATION OF JEFFREY Z. LIU, ESQ.
AND ROGER HIGGINS, ESQ. IN SUPPORT
THEREOF; REQUEST FOR MONETARY
SANCTIONS IN THE AMOUNT OF \$4896.00
AGAINST GARY SMOLKER AND/OR THE
LAW OFFICES OF GARY S. SMOLKER**

RESERVATION NO.: 161115174315

Date: January 17, 2017
Time: 8:30 A.M.
Place: Department 15

REC'D
DEC 30 2016
FILING WINDOW

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL JUDICIAL DISTRICT

TIG INSURANCE COMPANY,
A California corporation,

Plaintiff,

v.

GARY SMOLKER, an individual, and ALICE
SMOLKER, an individual; and DOES 1-10,
inclusive,

Defendants.

GARY SMOLKER,

Cross-Complainant,

v

HOME SAVINGS TERMITE CONTROL, INC., et
al.,

Cross-Defendants

Case No. BC173952

*Transferred to the Honorable Judge Richard Fruin
Department 15*

**[PROPOSED] ORDER MOTION TO
DISMISS FOR FAILURE TO BRING
ACTION TO TRIAL WITHIN FIVE YEARS
AS REQUIRED BY CODE OF CIVIL
PROCEDURE §583.310, §583.360**

RESERVATION NO.: 161115174315

Date: , 2016
Time: 8:30 A.M.
Place: Department 15

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the Motion to Dismiss for Failure to Bring Action to Trial
Within Five Years filed on behalf of W.R. GRACE & CO. and Grace Davidson came on regularly for
hearing on December 20, 2016 at 8:30 a.m. in Department 15 of the above-entitled Court, the Honorable
Richard Fruin, judge presiding. Briefs were submitted and oral argument ensued.

1 FOR GOOD CAUSE APPEARING the COURT grants W.R. GRACE & CO. and Grace
2 Davidson's motion to dismiss and dismisses this case with prejudice.

3 IT IS FURTHER ORDERED upon review of W.R. GRACE & CO. and Grace
4 Davidson's supplemental briefing that sanctions against GARY SMOLKER in the amount of
5 \$ _____ are awarded to W.R. GRACE & CO. and Grace Davidson to be paid within seven (7)
6 days of this order.

7 IT IS SO ORDERED.

8
9 DATED: _____

Richard Fruin
JUDGE OF THE SUPERIOR COURT